19

Department of L R & Settlement

OFFICE of Board of Revenue

STATION Madras

Mis No. 3054

A 2583/31

Dated 29/9/31

	Date	Initial
	Given for copying	
	Copied	
	Examined	
	Signed	
	Given for despatch	
	Despatched	
	Indexed	
Pages in the file	To be destroyed on*	

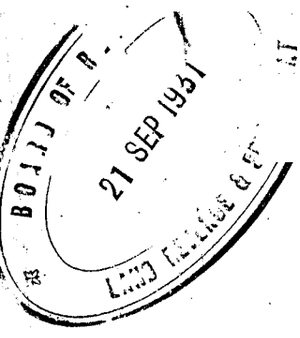
(SUBJECT.)

Suits – (South Kanara) – Further
Dr Munsiff – Of no 288/31 – Kepu Village
Assignment of Land – Defence –
sanctioned.

Ref.A.3-7016-31. South Kanara Collector's Office
Mangalore, 13th September 1931.

From

Khan Bahadur J.Hussain,Bar-at-law,
Collector of South Kanara.



To

The Secretary to the Board,
Land Revenue and Settlement,
Madras.

Sir,

Suits- Puttur- District Munsif's Court-C.S.No.288/3
Appanna alias Thimmanna Bhatta vs.Government and three othe

I enclose an English translation of the plaint in th
above suit, which is for a declaration that the plaint prop
ties, viz., R.S.Nos.42/2B and 43/2 of Kepu village, Puttur T
assigned to defendants 2 and 3, belong to the plaintiff.

2. The plots in question form part of R.S.Nos.42/2 and
43, which along with some other fields, were ordered by the
Revenue Divisional Officer, Puttur, to be reserved for assi
ment to the depressed classes in his order D.Dis.No.108-30,
dated 12-1-1930. While enquiry in this reservation case wa
pending, the two defendants, members of that class, applied
the assignment of the plaint plots. They were assigned b
Tahsildars to the applicants on 6-1-30 in his D.R.413/39.
The plaintiff was neither a party nor a takrirdar to the d
chast case. He, however, appealed to the Revenue Divisio
Officer, Puttur, urging warg claim with possession and e
joyment as also kumaki claim. The Revenue Divisional Off
rejected the warg-claim, but having found that a small pc
of the plaintiff's kumaki had been included in R.S.42/2B,
directed, in his order D.Dis.1276-30, dated 30-6-30, that
kumaki portion should be sub-divided and assigned to the p
tiff. The remaining portion in R.S.42/2B and the whole o

R.S.43/2 are purely non-kumki lands at the disposal of Government. The plaintiff having failed to prove his other contentions, both the Collector and the Board declined, in revision, to interfere on his behalf. Please see Collectors D.Dis.8432-30, dated 21-9-30 and D.P.Routine No.7591, L.R.M.S, dated 17-12-30. ~23 (G)

2. The plaintiff has not proved his waru claim, nor has he produced any evidence of exclusive enjoyment. The plots had been registered as assessed waste, even at the last settlement and the plaintiff's claim is long time-barred. His suit notice was, therefore, recorded. Please see my D.Dis.1919-31, dated 22-4-31. The Government Pleader, Mangalore is of opinion that the plaintiff has no case and I quite agree with him. I therefore recommend that the Board be pleased to sanction the defence of the suit and to approve the draft written statement, (A copy enclosed) prepared by the Valid- at Puttur and certified by the Government Pleader to be in order. ~59 (P) ~1 (N) ~7 (N) ~7-8 (E)

4. A copy of the plaint dated 4-7-31 was received by me on 15-7-31 together with the summons. The suit stands posted to 8-10-31. The records noted in the margin are enclosed for reference.

1. Puttur Tahsildar's D.R.413/39.
2. Puttur Revenue Divisional Officer's D.Dis.108/30.
3. -do - D.Dis.1276/30.
4. Collector's D.Dis.8432-30.
5. -do - D.Dis.1919-31.

A Krishnaswami 17/8

For Collector.

In the Court of the Dt.Munsif of Puttur.

O.S. No. 288/1931.

--ppanna alias Thimmanna Bhatta,
son of Ishwara Bhatta, wargdar,
residing at Alankar in Vittal
Casba village. Plaintiff.

a n d

The Secretary of State for India in Council.

Rama Naika) Sons of Marati Ishwara Naika, residing in Kedumule also known as Biramule in Kepu village. Defendants.
Putta Naika.)

Vishnaya, son of Melina Tenkila Shankernarnappaya of Kepu village.

The plaintiff above named begs to state as follows:-

That the undermentioned plot has been in the plaintiff's session by right of purchase since he purchased it. Prior to its purchase, it was in the possession of the vendee and before him, in that of his predecessor, ever since he obtained on darkhast in fasli 1265. The plot thus belongs to the plaintiff by entire right.

The plot in question is now in the possession of the 4th defendant, who enjoys it as plaintiff's tenant by right of a lease (vaide-geni). Defendants 2 and 3, who are residing elsewhere, are the sub-tenants of defendant 4.

That the plaintiff has learnt that some of the plaintiff's foes with the connivance of the Revenue subordinates not only got the said land sub-divided and registered in the Revenue accounts as land reserved for the depressed classes, falsely on the ground that it was left out of holding at the original survey and settlement, but also got it assigned in the names of defendants 2 and 3, without any enquiry as to possession and without the knowledge of the plaintiff. The

said order of assignment is not binding upon the plaintiff's land. Neither the 1st defendant nor any of his subordinates has any right to assign the plot, which is in the possession of the plaintiff. The said order is invalid and unlawful. The plot contains a path leading to the plaintiff's other lands as also channel carrying spring water.

4. The said plot continued as it was, for want of knowledge in survey and also for want of information that it was not included in patta (holding). Though a request was made for its inclusion in patta, when it came to be known that it was not so included, the request was not complied. Though all the circumstances of the case were explained both to the Revenue Divisional Officer and the Collector, their orders have been beside the point. As it is necessary that this suit should be disposed of in the presence of the 1st defendant, he has been made a party.

5. As no relief could be got inspite of notice under section 80 of the Civil Procedure Code the filing of this suit has been necessitated. As defendant 4 is one of the persons, who connived at the 2nd and 3rd defendants' prominence, and as he remained silent though he was bound to guard the plaintiff's interests, he has been impleaded as a party.

6. The cause of action for this suit arose on 6-1-50 and 30-6-50 in Kepu village.

7. The relief claimed in this suit amounts to Rs.135-0-0.

8. The plaintiff therefore prays for a declaration that the property mentioned below belongs even now to the plaintiff cancelling as illegal and invalid the Puttur Tahsildar's order in D.R. 413/1339 assigning the plots to defendants 2 and 3.

Relief valued at Rs. 130-0-0

He also prays for a permanent injunction restraining defendants 2 and 3 from entering the plots and from making any improvements thereon. 5-0-0

(Relief).

Prays also for a decree for costs of this suit with interest thereon.

In the Court of the District Munsiff of Puttur.

O.S.288/1931.

Appanna alias Thimmanna Bhatta — Plaintiff

The Secretary of State for India in Council and others. — Defendant

Written statement of 1st Defendant under Order 8 Rule 1.of the Civil Procedure Code.

1. The Plaintiff's suit is frivolous. vexatious and unsustainable at law.

2. This Defendant denies that the plaint plots appertaining to R.S.Nos.43/2 and 42/2B of Kepu village, belonging to Plaintiff by purchase right and that his predecessor-in-title or he was in possession of the same as alleged in the plaint. These plots were pure Government assessed waste lands and were treated as such since a long time until they were assigned to Defendants 2 and 3.

3. This Defendant also denies that the plaint plots were left out of demarcation, by mistake during Settlement. The said plots being Government land, the Plaintiff was not entitled to get them included in his patta. The Plaintiff has no right whatsoever to the plaint plots.

4. The plaint plots were reserved for assignment to members of the Depressed Classes and the Plaintiff not having objected to such reservation, he is estopped from claiming them.

5. On the application of Defendants 2 & 3 these plots were assigned to them by the Tahsildar of Puttur Taluk in D.R. 413/1339 subject to the rules for assignment to members of the Depressed class and on appeal by the Plaintiff, a portion of R.S.No.42/2B forming kumaki to him, was ordered to be subdivided and assigned to the Plaintiff. The Plaintiff is not entitled to get anything more under the darkhast rules.

6. This Defendant denies that the plaint plots were included in the Vaidegeni granted to 4th Defendant and that they were in his enjoyment and that Defendants 2 & 3 are sub tenants of 4th Defendant as alleged in the plaint. The Defendants 2 & 3 are in possession under the assignment made to them.

7. The Plaintiff is not entitled to question the

validity of the assignment made by the Revenue Authorities.

8. The Plaintiff's claim, if any, is barred by limitation.

9. The suit for mere declaration is barred by Section 42 of Specific Relief Act and is unsustainable.

10. The boundaries set forth in the plaint and the description are not correct.

11. All other allegations not expressly admitted herein are denied.

The suit against this Defendant may therefore be dismissed with costs.